

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JERMAINE DOCKERY, ET AL.

PLAINTIFFS

VS.

No. 3:13-cv-326-WHB-JCG

MARSHALL L. FISHER, ET AL.

DEFENDANTS

**DEFENDANT'S MOTION FOR ADDITIONAL TIME
TO SUBMIT SUPPLEMENTAL REPORTS**

Defendant Mississippi Department of Corrections ("MDOC")¹ files this Motion for Additional Time to submit supplemental expert reports and witness declarations, stating the following in support:

1. In its [767] Opinion and Order, MDOC's supplemental reports are presently due on December 14, 2018.

2. MDOC plans to present supplemental reports by their designated experts. In addition, MDOC plans to present declarations by Dr. Patrick Arnold, medical director and chief physician for EMCF, and by Dr. Steven Bonner, chief psychiatrist for EMCF.

3. Good cause supports this request for additional time. Namely, due to time and effort expended in considering Plaintiffs' settlement proposal, preparing MDOC's own settlement proposal, and preparing for and participating in a court-conducted settlement conference, undersigned counsel would benefit from having additional time to gather information pertinent to MDOC's supplemental reports.

¹ The named defendants are Pelicia Hall, Gloria Perry, Jerry Williams, and Richard McCarty in their official capacities, but persons sued in their official capacity "assume the identity of the government [entity] that employs them." *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 109 (1989). Thus, the real party-in-interest is MDOC.

In addition, due to pre-existing obligations and time constraints of MDOC's witnesses, the witnesses would benefit from having additional time to prepare their supplemental reports and declarations. Lastly, due to the passing of Tom Roth's mother-in-law on December 11, 2018, Mr. Roth (one of MDOC's designated experts) would greatly benefit from additional time to prepare his report given various personal matters to which he has to attend over the next several days.

4. This Motion is not being made for purposes of harassment or delay, but to allow MDOC and its witnesses adequate time to prepare the supplemental reports requested by the Court. Accordingly, MDOC respectfully requests that the deadline be extended up to and including December 21, 2018.

5. Plaintiffs' counsel has been contacted and consents to the requested extension with the explanation provided in Paragraph 6.

6. Plaintiffs maintain their objections to MDOC's submission of declarations by Dr. Arnold and Dr. Bonner, who are not designated experts in this civil action. By agreeing to this extension of time, Plaintiffs do not waive those objections and reserve their right to raise those objections in a motion to strike or by other appropriate means.

WHEREFORE, PREMISES CONSIDERED, MDOC respectfully requests that this Court grant this Motion and enter an order extending the deadline for submission of MDOC's reports and declarations up to and including December 21, 2018.

THIS, the 12th day of December, 2018.

Respectfully submitted,

BY: s/ Nick Morisani

Gary E. Friedman, Bar No. 5532
W. Thomas Siler, Jr., Bar No. 6791
G. Todd Butler, Bar No. 102907
H. David Clark, III, Bar No. 104165
Nicholas F. Morisani, Bar No. 104970
Phelps Dunbar, LLP
4270 I-55 North
Jackson, Mississippi 39211-6391
Telephone: 601-352-2300
Facsimile: 601-360-9777
Gary.Friedman@phelps.com
Tommy.Siler@phelps.com
Todd.Butler@phelps.com
clarkt@phelps.com
Nick.Morisani@phelps.com

BY: s/ Michael J. Bentley

Michael J. Bentley, Bar No. 102631
Molly M. Walker, Bar No. 100689
Bradley Arant Boult Cummings, LLP
Post Office Box 1789
Jackson, Mississippi 39215-1789
Phone: (601) 948-8000
Fax: (601) 948-3000
mbentley@babco.com
mconner@babco.com
mmwalker@babco.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I, *Michael Bentley*, certify that the foregoing document has been filed with the Clerk of Court using the Court's ECF system, which provides service of the foregoing to all counsel of record who have entered an appearance in this case as of the date below.

Dated: December 12, 2018.

/s/ *Michael Bentley*
Nicholas F. Morisani